



ANDREA J. CABRAL
SHERIFF

Suffolk County Sheriff's Department

Jail
200 Nashua Street
Boston, MA 02114
(617) 635-1100

House of Correction
20 Bradston Street
Boston, MA 02118
(617) 635-1000



May 21, 2004

Civil Clerk's Office
United States District Court for Massachusetts
U.S. Courthouse, 1 Courthouse Way
Boston, MA 02210

Re: David Golden v. County of Suffolk, USDC C.A. No. 04-10835-MEI
Edward R. Ellies v. County of Suffolk, USDC C.A. No. 04-10836-RGS
John Connolly v. County of Suffolk, USDC C.A. No. 04-10837-RGS
Michael Dwyer and County of Suffolk, USDC C.A. No. 04-10838-GAO
Robert Wisniewski, Jr. v. County of Suffolk, USDC C.A. No. 04-10839-PBS

Dear Sir/Madam:

Pursuant to 28 U.S.C. §1441 enclosed for filing please find certified copies of the case files on the above-referenced matters.

If you have any questions or require further information, please contact me at the number listed below.

Sincerely,

Ellen M. Caulo/g.

Ellen M. Caulo
Deputy General Counsel
Suffolk County Sheriff's Department
(617) 989-6681

Enc.

cc: Robert Tobin, Jr., Esq. (without enclosures)

Suffolk Superior Civil #04-981

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DAVID M. GOLDEN
Plaintiff,

v.

COUNTY OF SUFFOLK
Defendant,

04 10835 MEL

C.A. No.



I HEREBY ATTEST AND CERTIFY ON 4/27/04
THAT THE FOREGOING DOCUMENT IS A FULL, TRUE
AND CORRECT COPY OF THE ORIGINAL ON FILE
IN MY OFFICE AND IN MY LEGAL CUSTODY.

NOTICE OF REMOVAL

The Defendant-Petitioner County of Suffolk, petitions pursuant to 28 U.S.C. § 1441 for removal from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts the action entitled David M. Golden v. County of Suffolk, pending in Suffolk County as Civil Action No. 04-0981.

1. This action involves allegations that the Defendant deprived the Plaintiff of his constitutional rights and was brought pursuant to 42 U.S.C. § 1983.
2. This action is subject to removal by the Defendant-Petitioner by virtue of the provisions of 28 U.S.C. § 1441.
3. This petition for removal is filed within thirty days of receipt of the Summons and Complaint, copies of which are attached hereto.

Wherefore, the Defendant- Petitioner, Suffolk County, petitions that this action be removed.

Respectfully submitted,
DEFENDANT
COUNTY OF SUFFOLK.
By its attorney,

Ellen M. Caulo
Ellen M. Caulo

RECEIVED

MAY 4 2004

I HEREBY ATTEST AND CERTIFY ON

MAY 10, 2004, THAT THE

FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY: *Jeanne A. Antosca*

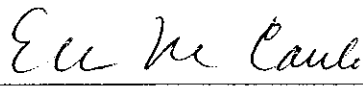
ASSISTANT CLERK.

BBO #545250
Deputy General Counsel
Suffolk County Sheriff's Department
200 Nashua Street
Boston, MA 02114
(617) 989-6681

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served a true copy of the foregoing papers upon Plaintiff's attorney, Robert H. Tobin, Jr., 735 South Street, Roslindale, MA 02131, by first class mail on April 26th 2004.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 26th DAY OF
APRIL, 2004.


Ellen M. Caulo

GUARDIAN • SAFETY

SECURITY enhanced document. See back for details.


CITY OF BOSTON
SHERIFF DEPT. PETTY CASH
TREASURY DEPARTMENT M-36 CITY HALL
BOSTON, MA 02201

2074

DATE April 26, 2004

5-7017/2110
641

PAY TO THE ORDER OF Civil Clerk's Office - U.S. District Court - District of MA \$ 150.⁰⁰

 **CITIZENS BANK**
Massachusetts

FOR Golden

Andrew S. [Signature]

1100 DOLLARS

11002074 112110701751 1107413629

SUFFOLK SUPERIOR COURT

Case Summary

Civil Docket

SUCV2004-00981

Golden v Suffolk

File Date	03/08/2004	Status	Disposed: transferred to other court (dtrans)	
Status Date	05/05/2004	Session	A - Civil A	
Origin	1	Case Type	E03 - Action against Commonwealth/municipl	
Lead Case		Track	A	
Service	06/06/2004	Answer	08/05/2004	Rule12/19/20 08/05/2004
Rule 15	06/01/2005	Discovery	04/27/2006	Rule 56 06/26/2006
Final PTC	10/24/2006	Disposition	03/08/2007	Jury Trial Yes

Plaintiff David M Golden Active 03/08/2004		Private Counsel 499425 Robert H Tobin Jr Tobin & Tobin 735 South Street Roslindale, MA 02131 Phone: 617-325-1010 Fax: 617-325-1055 Active 03/08/2004 Notify	
Defendant County of Suffolk Served: 03/31/2004 Served (answr pending) 04/07/2004		Private Counsel 545250 Ellen M Caulo Suffolk County Sheriff's Dept 200 Nashua Street Boston, MA 02114 Phone: 617-989-6681 Fax: 617-989-6562 Active 04/20/2004 Notify	

Date	Paper	Text
03/08/2004	1.0	Complaint & jury demand on complaint (all issues)
03/08/2004		Origin 1, Type E03, Track A.
03/08/2004	2.0	Civil action cover sheet filed
04/07/2004	3.0	SERVICE RETURNED: County of Suffolk(Defendant) (In hand on 3/31/04)
04/16/2004	4.0	Motion of deft to enlarge time for filing ANSWER or responsive pleadings to & incl May 24, 2004 & assented to (w/o opposition)
04/29/2004		MOTION (P#4) ALLOWED (Paul E. Troy, Justice) (Dated 4/26/04) Notices mailed April 27, 2004
05/04/2004		Certified copy of petition for removal to U. S. Dist. Court of Deft. County of Suffolk U. S. Dist.#(04-10835MEL).
05/05/2004		Case REMOVED this date to US District Court of Massachusetts

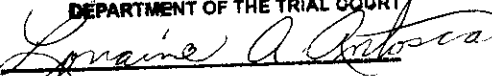
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case01 236128 y y y y y

Page 1 of 1

**MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT**

BY 
ASSISTANT CLERK.

1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL NO.

04-0981 A

DAVID M. GOLDEN,)
Plaintiff)
VS.)
COUNTY OF SUFFOLK,)
Defendant)

COMPLAINT

COUNT I- TORT FOR NEGLIGENCE PURSUANT TO MGL Ch. 258 S.1, ET SEQ.

Now comes the Plaintiff David M. Golden, and alleges that:

1. The plaintiff David M. Golden is an individual resident of
Dorchester, County of Suffolk, in said Commonwealth.

2. The Defendant County of Suffolk is a county in the
Commonwealth of Massachusetts and is and was at all times material
hereto a public employer.

4. On or about April 29, 2003 the defendant had custody of
the plaintiff , who at that time was incarcerated pursuant to a
court ordered sentence of commitment, at a facility operated by the
defendant located at Boston, Massachusetts.

5. On or about April ~~29~~ 29, 2003, the defendant, through its
employees, did undertake to care for the plaintiff and was
responsible for the care of the plaintiff while the said plaintiff
was in the custody of the defendant.

6. The said Defendant, through its agent(s) or employee(s)

owed a duty to the said Plaintiff, as a person under the custody of the defendant, to exercise reasonable care so as to prevent injury to the plaintiff.

7. On or about April 29, 2003, the defendant required the plaintiff to sleep on a bunk bed located above the floor of his assigned cell, without providing the plaintiff with a ladder or other safe means to ascend to and descend from said bed; and without instructing the plaintiff in a safe manner of ascending to and descending from said bed.

8. The said Defendant thus breached its said duty referred to in paragraph 6 above.

9. On or about April 29, 2003, while in the exercise of due care, the said Plaintiff while attempting to descend from the said bed , fell and was injured due to the negligent act(s) or omission(s) of the Defendant, through its agent(s) or employee(s).

10. As a proximate and actual result thereof, the said Plaintiff was seriously injured, suffered great pain of body and was forced to incur medical expense for medical care occasioned thereby.

11. Pursuant to the requirements of MGL Ch.258, written notice of the plaintiff's claims, a copy of which is annexed hereto and marked "A", was served on the Suffolk County Commissioners within two years after the date upon which the causes of action arose. Such claims have been finally denied by such executive officer and

public employer, who failed to deny such claims in writing within six months after the date upon which it was presented, or reach final arbitration, settlement, or compromise of said claims.

Wherefore the said Plaintiff demands a money judgment against said Defendant, plus costs.

COUNT II- CAUSE OF ACTION PURSUANT TO 42 USC S. 1983 VS. DEFENDANT- MUNICIPAL LIABILITY

Now comes the Plaintiff and realleges and incorporates by reference herein the allegations contained in paragraphs one through eleven of the first count of this complaint and further allege as follows:

12. On or about April 29, 2003 and prior thereto, the defendant, through its employees, was aware that inmate(s) in its custody had been injured by falling while ascending to and/or descending from bunk bed(s) located off of the floor of its cells.

13. On or about April 29, 2003, the defendant had custody of the plaintiff, who at that time was incarcerated pursuant to a court ordered committed sentence, at a facility operated by the defendant located at Boston, Massachusetts.

14. The defendant, through its sheriff or County Commissioners or other employee(s) with final decision making authority, maintained policies or customs of deliberate indifference to the Constitutional rights of inmates such as the plaintiff, which caused the deprivation of the plaintiff's State and Federal Constitutional rights.

Wherefore the Plaintiff requests that this Court:

- a. Award compensatory damages against the defendant County of Suffolk;
- b. Award the costs of this action, including reasonable attorney's fees to the plaintiff in accordance with 42 U.S.C. S.1988;
- c. Award the plaintiff prejudgment interest; and
- d. Award such other and further relief as this Court may deem necessary and appropriate.

Plaintiff claims trial by jury on all counts.

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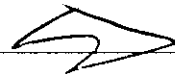
MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE JUDICIAL COURT

BY: *Lorraine A. Antosca*

ASSISTANT CLERK.

Dated: 3/3/07

By his attorney,



ROBERT H. TOBIN, JR.
TOBIN AND TOBIN, PC
735 South Street
Roslindale, MA 02131
Tel. (617) 325-1010
BBO No. 499425

CIVIL ACTION COVER SHEET		DOCKET NO.(S) 04-0981 A	Trial Court of Massachusetts Superior Court Department County: <u>Suffolk</u>
PLAINTIFF(S) <u>David M. Golden</u>		DEFENDANT(S) <u>County of Suffolk</u>	
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE (617) 325-1010 <u>Robert H. Tobin, Jr.</u> <u>735 South Street, Roslindale, MA 02131</u> Board of Bar Overseers number: <u>499425</u>		ATTORNEY (if known)	
Origin code and track designation			
Place an x in one box only:			
<input checked="" type="checkbox"/> 1. F01 Original Complaint	<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)		
<input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)	<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)		
<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)	<input type="checkbox"/> 6. E10 Summary Process Appeal (X)		
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)			
CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?
<u>E03</u>	<u>Action vs. County</u>	<u>(A)</u>	<u>(X)</u> Yes <u>()</u> No
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.			
TORT CLAIMS (Attach additional sheets as necessary)			
A. Documented medical expenses to date:			
1. Total hospital expenses	\$ -0-		
2. Total Doctor expenses	\$ -0-		
3. Total chiropractic expenses	\$ -0-		
4. Total physical therapy expenses	\$ -0-		
5. Total other expenses (describe)	\$ -0-		
			Subtotal \$ -0-
B. Documented lost wages and compensation to date			
C. Documented property damages to date			
D. Reasonably anticipated future medical and hospital expenses			
E. Reasonably anticipated lost wages			
F. Other documented items of damages (describe)			
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)			
<u>Plaintiff fell while descending bunk bed due to defendant's negligence and deliberate indifference, suffering rib, wrist, hand and back injury.</u>			\$ -0-
			TOTAL \$ -0-
CONTRACT CLAIMS (Attach additional sheets as necessary)			
Provide a detailed description of claim(s):			
			TOTAL \$
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT			
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."			
Signature of Attorney of Record <u>[Signature]</u>			DATE: <u>3/3/04</u>

AOTC-6 mtc005-11/99
A.O.S.C. 1-2000I HEREBY ATTEST AND CERTIFY ON
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TRUE AND CORRECT COPY OF THE
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CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURTBY: [Signature]

ASSISTANT CLERK.

Commonwealth of Massachusetts

3

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION

No. 04-0981 A

David M. Golden

, Plaintiff(s)

v.

County of Suffolk

, Defendant(s)

SUMMONS

To the above-named Defendant: County of Suffolk

You are hereby summoned and required to serve upon Robert H. Tobin, Jr.

plaintiff's attorney, whose address is 735 South St. Roslindale, MA 02131, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DelVecchio, Esquire, at Boston, the 18th day of March, in the year of our Lord two thousand four.

Michael Joseph Donovan

Clerk/Magistrate

NOTICE TO DEFENDANT: You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

3. TO PLAINTIFF'S ATTORNEY PLEASE CIRCLE TYPE OF ACTION INVOLVED:

(1) TORT (2) MOTOR VEHICLE TORT (3) CONTRACT (4) EQUITABLE RELIEF (5) OTHER

FORM CIV.P. 13rd Rev.

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MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY *Suzanne V. DelVecchio*

ASSISTANT CLERK.

NOTICE

4.27

4.22

4

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT
C.A. NO. 04-0981 /

DAVID M. GOLDEN)
Plaintiff,)
v.)
COUNTY OF SUFFOLK)
Defendant,)

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2004 APR 16 P 26
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

ASSENTED TO MOTION TO ENLARGE TIME FOR FILING ANSWER OR
RESPONSIVE PLEADINGS

Notice sent:

04/27/04 (1.1.)

R.H.T.Jr.

T&T.

E.M.C.

S.C.S.D.

Now comes the Defendant, County of Suffolk, in the above-entitled action and respectfully requests that this Honorable Court enlarge the time to answer or otherwise respond to the Plaintiff's complaint from April 21, 2004 to May 24, 2004. As reasons therefore, Counsel for the Defendant states that the Summons and Complaint were served on the City of Boston's City Clerk's Officer on April 1, 2004 but were not received by the General Counsel's Office of the Suffolk County Sheriff's Department until April 14, 2004. As such additional time it needed to adequately prepare the Defendant's response. Counsel for the Plaintiff, Robert H. Tobin, Jr., Esquire, assents to this request.

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MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY

ASSISTANT CLERK.

Respectfully submitted,
Defendant, Suffolk County
By its attorney

Ellen M. Caulo

Ellen M. Caulo (BBO #545250)
Deputy General Counsel
Suffolk County Sheriff's Department
200 Nashua Street
Boston, MA 02114
(617) 989-6681

Assented to:

Robert H. Tobin, Jr. (Eric)

Robert H. Tobin, Jr., Esquire

Dated: April 16, 2004

4/26/04 Notice assented.
Thy. J.